

REMARKS

1. Status of the Claims

Claims 1-20 stand pending. Claims 1-20 are subject to Restriction / Election Requirement.

2. Information Disclosure Statements

Applicants respectfully request acknowledgment of the three Information Disclosure Statements submitted respectively on April 26, 2007; April 13, 2007; and June 15, 2006 with the Office's next communication.

3. Priority Documents

Applicants respectfully request acknowledgement of the certified priority documents submitted on June 15, 2006 with the Office's next communication.

4. Acceptance of Drawings

Applicants respectfully request status as to the acceptance of the drawings as filed with the Office's next communication.

5. Response to Restriction

The Office restricts claims 1-20 in to one of the following groups:

- 1) **Group I**, claims 1-9 (in part) and 12-17, drawn to a gene coding for a protein having activity of transferring a sugar to the chalcone 4'-position, or wherein the gene encodes SEQ ID NO:2 or variants thereof, or wherein the gene is SEQ ID NO:1, or variants thereof, a vector, host cell, plant and methods comprising said gene;
- 2) **Group II**, claims 1-9 (in part) and 12-17, drawn to a gene coding for a protein having activity of transferring a sugar to the chalcone 4'-position, or wherein the gene encodes SEQ ID NO:70 or variants thereof, or wherein the gene is SEQ ID NO:69 or variants thereof; a vector, host cell, plant and methods comprising said gene;

- 3) **Group III**, claims 10-11, drawn to a protein and method of producing said protein;
- 4) **Group IV**, claim 18, drawn to a method of introducing and expressing a gene coding for a protein having activity of transferring a sugar to the chalcone 4'-position together with a gene coding for aureusidin synthase in a plant while also inhibiting expression of a flavonoid synthesis pathway gene in the host to alter the flower color to yellow;
- 5) **Group V**, claim 19, drawn to a method of introducing and expressing a gene coding for a protein having activity of transferring a sugar to the chalcone 4'-position together with a gene coding for aureusidin synthase in a plant while also inhibiting expression of the dihydrofavonol reductase gene in the host to alter the flower color to yellow; and
- 6) **Group VI**, claim 20, drawn to a method of introducing and expressing a gene coding for a protein having activity of transferring a sugar to the chalcone 4'-position together with a gene coding for aureusidin synthase in a plant while also inhibiting expression of the flavanone 3-hydrosylase gene in the host to alter the flower color to yellow.

The Office further requires the Applicants elect one DNA sequence from claim 5 and one corresponding amino acid sequence from claim 2, if one of Groups III-VI is elected.

By applying 37 C.F.R. § 1.475(d), the Office asserts that the Group I is the main invention, which comprises “a gene coding for a protein having activity of transferring a sugar to the chalcone 4'-position, wherein the gene codes SEQ ID NO:2, or wherein the gene is SEQ ID NO:1 or variants thereof; a vector, host cell, plant and method comprising said gene.”¹ Office Action, page 3. The Office then asserts that “any feature which the subsequently recited products and methods share with the main invention does not constitute a special technical feature within the meaning of PCT Rule 13.2 and that each of such products and methods accordingly defines a separate invention.” *Id.* Regarding to Groups I and II, the Office asserts that they are not linked by a single special technical feature, because different DNA sequences encoding different polypeptides “have different properties and different core structures and a search for one sequence does not encompass a search for the other sequence.” Office Action, page 4.

¹ Applicants may not necessarily agree with the Office regarding the characterization of the present claims.

Furthermore, the Officer alleges that "[e]ach of Inventions I-VI are capable of being separately made, independently used and the patentability of one does not render the others obvious or unpatentable." *Id.*

6. **Election without Traverse**

Applicants elect **Group 1** (claims 1-9 and 12-17 in part) **without traverse**.

CONCLUSION

Should the Office have any questions or comments regarding Applicants' response, please contact Applicants' undersigned representative at (202) 842-8821. Furthermore, please direct all correspondence to the below-listed address.

In the event that the Office believes that there are fees outstanding in the above-referenced matter and for purposes of maintaining pendency of the application, the Office is authorized to charge the outstanding fees to Deposit Account No. 50-0573. The Office is likewise authorized to credit any overpayment to the same Deposit Account Number.

Respectfully Submitted,

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